

June 8, 1956

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CONCORD, N.H.

Mr. Adelard E. Cote, Commissioner  
Department of Labor  
15 Pleasant Street  
Concord, New Hampshire

Dear Mr. Cote:

By your letter of May 25, you have asked the advice of this office relative to the following questions:

1. Does a minor continue to receive compensation payments as a result of the death of his parent after reaching the age of 21 or when he becomes self-supporting?

Our statute, RSA 281:22, provides for weekly payments to be made to the dependents of a deceased workman and in paragraph III states:

"In case of remarriage of a widow who has dependent children the unpaid balance of compensation which would otherwise become her due shall be payable to the mother, guardian, or such other person as the commissioner of labor may order, for the use and benefit of such children . . ."

Under the definitions in section 2, paragraph VIII, it appears that the statute fixes the time of dependency as the date of the injury.

"Once rights as a dependent under an award have been acquired, they are not lost by a subsequent change in the dependent's financial position, nor by any change short of

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the events, . . . expressly terminating compensation by statute." 2 Larson's Workmen's Compensation Law, s. 64:40; American Mutual Liability Insurance Co. v. Dorothy Perkins Chmarrt, Guardian, 100 N.H. \_\_\_\_ decided March 29, 1956.

2. The second question you have asked is whether in agreements for compensation for a widow, provisions for unborn children should be made in the original agreement or should be made after the birth of the children by a letter accompanying the original agreement.

There are no provisions in the statute which indicate the procedure as to how the payments in this instance should be made.

It is my opinion, therefore, that a reference in the original agreement to the probability of dependent children being born, with the notation that a new division of the amounts payable is to be made, would be sufficient.

Very truly yours,

Arthur E. Bean, Jr.  
Assistant Attorney General

AEB, Jr/W